IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.787 OF 2005

Narendra Sadashiv Kulkarni and anr... Applicants

versus

The State of Maharashtra ... Respondent

...

Mr. A.P. Mundargi, for Mr. V.V. Kaney, for the Applicants.

Mr. A.S.Gadkari, A.P.P., for the Respondent.

...

CORAM : A.M.KHANWILKAR,J.

23rd February 2005

P.C.:

. Heard Counsel for the parties. Perused the record. Indeed, going by the F.I.R., it does appear that utterances have been made by the Applicants which are offending. However, considering the entire backdrop of the case and closely examining the F.I.R., as filed, to my mind, the present F.I.R. has been filed only as counter-blast to the complaint filed by Applicant

No.2 against group of persons who had stormed company on 20th November 2004 and damaged the property of the company causing loss as well as theft of the company property. Even accepting the prosecution case as it is, it appears that the complainant met them for the first time. There was no reason for the Applicants to know the caste of the complainant. Further, the offending utterances attributed in the complaint are against both the Applicants allegedly spoken together. Taking overall view of the matter, the entire proceedings itself becomes doubtful and as mentioned earlier, the present F.I.R. has been lodged only as counter-blast to the complaint lodged by Applicant No.2. There is substance in the argument canvassed on behalf of the Applicants that the names of persons which were disclosed to the Applicants by itself will not even remotely suggest that those persons belonged to a particular community, namely, scheduled caste or scheduled tribe. Taking overall view of the matter, the Applicant deserves to be granted anticipatory bail on the following terms.

(A) The Applicants are granted

anticipatory bail in connection with CR.No.5/2004 registered with Koyna Nagar Police Station, District Satara on their executing personal bond in the sum of Rs.10,000/- (Rupees Ten thousand only) each with two local sureties in the like amount. This anticipatory bail shall enure in favour of the Applicants till the filing of the charge sheet.

(B) The Applicants shall abide by the conditions under section 438(2) of the Code of Criminal Procedure, as applicable to the State of Maharashtra.

. Application disposed of accordingly.

(A.M.KHANWILKAR,J.)